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09/977,887	10/15/2001	Mitsuya Kishida	282661US8X	3455
22850 7590 09/18/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
HUYNH, NAM TRUNG				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
09/18/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

# Office Action Summary

## Application No.

09/977,887

## Applicant(s)

KISHIDA ET AL.

## Examiner

NAM HUYNH

## Art Unit

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1.5-12 and 16-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1.5-12 and 16-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/02)
- Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

This office action is in response to amendment filed on 6/18/2008. No amendments were made to previously presented claims 1, 5-12, and 16-22.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 5, 7-10, 12, 16, 18, and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallant et al. (US 5,802,468) (hereinafter Gallant) in view of Wells et al. (US 5,870,683) (hereinafter Wells).

Regarding claim 1, Gallant teaches a method for providing an image for a display of a communication device, whereby the data of images (icons) are stored in at least

one memory accessible for said communication device (column 9, lines 59-62), comprising the steps of:

a) automatically selecting images to be displayed, from said stored images, according to pre-set parameters (BTS identification code) received from a base station (column 9, lines 4-26);

b) retrieving the data of said automatically selected images from said memory, wherein said preset parameters are received independent from the storing and retrieving of said data of said images (column 9, lines 27-58, the icons are locally stored on the mobile station and are independent from the BTS identification code).

c) displaying said retrieved images as defined by said pre-set parameters on said display of said mobile telephone (column 10, 7-10, the icons may be representative of the telephone service, brand, or calling area and therefore the icons to be displayed may be defined by the BTS identification code)

However, Gallant does not explicitly teach the displaying of background images and displaying the retrieved background images in sequence defined by the pre-set parameters are displayed in sequence on the display of the mobile telephone. Wells teaches the displaying of a graphical information (background image) sequence when a mobile station is in a certain state or is powered on (column 2, lines 20-25). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mobile station of Gallant to display a graphical information sequence, as taught by Wells, instead of a non-animated icon in response to the received BTS identification, in order to allow different images of an icon to be

sequentially displayed to give an appearance of movement, size, change, rotation, etc. This modification makes the mobile station more flexible in that it improves the appearance of the icon to make it more appealing or entertaining to the user.

Regarding claims 5 and 16, Gallant teaches that step b) comprises the reception of said background image data from a base station upon registering process (column 9, lines 4-10).

Regarding claims 7 and 18, Gallant teaches that step b) comprises reading said background image data from a memory of the communication device unit (column 9, lines 59-62).

Regarding claims 8-10 and 19-21, Wells teaches that the animations can be loaded from any external data connection (column 10, lines 14-15).

Regarding claim 12, the limitations are rejected as applied to claim 1.

4. Claims 6 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallant et al. (US 5,802,468) (hereinafter Gallant) in view of Wells et al. (US 5,870,683) (hereinafter Wells), as applied to claims 1 and 12 above, and further in view of Hubbe et al. (US 6,667,748) (hereinafter Hubbe).

The combination of Gallant and Wells teaches the limitations set forth in claim 1, but does not explicitly teach that the animations or background images are stored in a SIM. Hubbe discloses a method of displaying a sequence of images on a display associated with a piece of radio communications mobile equipment co-operating with a subscriber identity module (abstract). Therefore it would have been obvious to one of

ordinary skill in the art at the time the invention was made to allow the animations of the combination of Gallant and Wells to be stored in SIM, as taught by Hubbe, in order to display a sequence of images on the screen of a radio communications terminal from the SIM. This modification allows the use of services or data received from any piece of radio communications equipment by the mobile station.

5. Claims 11 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gallant et al. (US 5,802,468) (hereinafter Gallant) in view of Wells et al. (US 5,870,683) (hereinafter Wells), as applied to claims 1 and 12 above, and further in view of Fogarty (US 6,311,180).

The combination of Gallant and Wells teaches the limitations set forth in claims 1 and 12, but does not explicitly teach the formatting of background and foreground images. Fogarty discloses a method for mapping and formatting information (figure 2, item 306) for a display device in which a mapping system creates a display document. This display document describes display parameters such as background and foreground colors (column 10, lines 11-24). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to follow the teachings of Fogarty, and create a display document for the background images in the combination of Gallant and Wells in order to properly display the background image without any colors of the foreground. It is further obvious that by eliminating foreground colors in the background, the background image would be distinct and not be confused with foreground information.

***Response to Arguments***

6. Applicant's arguments filed 6/18/2008 have been fully considered but they are not persuasive.

Regarding claims 1 and 12, Applicant asserts that the combination of Gallant and Wells does not teach "automatically selecting background images to be displayed, according to pre-set parameters received from a base station and retrieving the data of said automatically selected background images from said memory wherein pre-set parameters are received independent from the storing and retrieving of said background images". The Examiner respectfully disagrees. In Gallant, icons or visual indications are used to identify the network or calling area for which the mobile station resides. This icon is selected from memory based on a received BTS identification code. Thus, teaching the above mentioned limitations since the images are automatically selected according to the BTS identification code (pre-set parameter received from a base station) and the identification code is independent of the storing and retrieving of the icon. Wells is cited to make up for the deficiencies that Gallant uses icons instead of graphical information or background images.

Applicant asserts that the combination of Gallant and Wells does not teach the display of background images. The Examiner respectfully disagrees and asserts that the display of background images is taught by Wells. The term "background image" is interpreted by the Examiner to be any image that encompasses the display area such as for example the snowflake animation sequence disclosed by Wells (column 8, lines

43-54; figures 4A-4C). This interpretation is reasonable since there are no details or specification in the claim language for images displayed in the foreground as asserted by Applicant. Thus in the combination of Gallant and Wells, when the mobile station receives a BTS identification code, a particular graphic sequence that fills the entire screen is displayed instead of an icon, which therefore renders the claim limitations and the rejection has been maintained.

Regarding claims 11 and 22, Applicant asserts that Fogarty describes the use of foreground and background color parameters only for text and fields and not concerned with background images. However, Fogarty was cited for the explicit teaching of the use of background and foreground colors and in combination of Gallant and Wells, the background images would use background color parameters. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not



Art Unit: 2617

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NAM HUYNH whose telephone number is (571)272-5970. The examiner can normally be reached on 8 a.m.-5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Eng can be reached on 571-272-7495. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George Eng/  
Supervisory Patent Examiner, Art Unit 2617

NTH  
9/3/08

